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Attorneys for Plaintiffs:
NICOLE BROWN-BOOKER and
JANA OVERBO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NICOLE BROWN-BOOKER, JANA
OVERBO,

CASE NO. C07-04397 SI
Civil Rights

Plaintiffs,

v.

**PLAINTIFFS' MOTION FOR
ADMINISTRATIVE RELIEF
REQUESTING THAT THE PARTIES BE
RELEASED FROM GENERAL ORDER 56**

APPLE INC.; DEKA IMMOBILIEN
INVESTMENT GMBH, LLC; and
DOES 1-10, inclusive,

Defendants.

1. FACTUAL AND PROCEDURAL BACKGROUND; RELIEF SOUGHT

A. Statement Of Facts

This case involves the denial of accessible sales establishment facilities, including denial of accessible entrance, path of travel, teaching theater seating, elevator, and restroom facilities, to plaintiffs NICOLE BROWN-BOOKER and JANA OVERBO and other disabled persons at the Apple Store, located at One Stockton Street, San Francisco, California. Plaintiffs NICOLE BROWN-BOOKER and JANA OVERBO are each a “person with a disability” or “physically handicapped person.” Plaintiffs require the use of a motorized wheelchair for

1 locomotion and are unable to use portions of public facilities which are not accessible to
2 disabled persons who require the use of a wheelchair. On May 12, 2007 and July 28, 2007, and
3 continuing, plaintiffs were denied their rights to full and equal access at these facilities, and
4 were denied their civil rights under both California law and federal law, as hereinbelow
5 described, because these facilities were not, and are not now, properly accessible to physically
6 disabled persons who use wheelchairs. Plaintiffs seek injunctive relief to require defendants to
7 make these facilities accessible to disabled persons and to ensure that any disabled person who
8 attempts to use the facilities will be provided accessible facilities, including: entry, paths of
9 travel, display counters, “teaching theater” seating, “genius bar” service, checkout counters,
10 and accessible and usable sanitary facilities. Plaintiffs also seek recovery of damages for their
11 discriminatory experiences, and denial of access and of their civil rights, which denial is
12 continuing as a result of defendants’ failure and refusal to provide disabled accessible facilities.
13 Plaintiffs also seek recovery of reasonable attorney fees, litigation expenses and costs,
14 according to statute.

15 **B. Procedural History, Request for Relief**

16 Pursuant to General Order 56, which governs this case, the parties have held a
17 site inspection, the parties’ respective access experts have met to discuss the injunctive relief
18 and have reported back to their respective counsel. The parties have held extensive mediation
19 proceedings, including two full-day in-person sessions, with mediator Catherine Yanni.
20 However, the case has failed to settle. While plaintiffs remain willing to engage in further
21 settlement discussions with defendants, it appears clear that the case does not have a reasonable
22 likelihood of settling without discovery and litigation being undertaken.

23 Accordingly, under General Order 56, plaintiffs are filing this Motion for
24 Administrative Relief seeking advancement of the Case Management Conference currently set
25 for November 7, 2008 before this Court. Plaintiffs also request that discovery be opened at this
26 time so that they can prove their claims.

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2. CONCLUSION

At this time, plaintiffs request that the Court advance the currently scheduled Case Management Conference, currently set for November 7, 2008. Plaintiffs further request that discovery be opened immediately so that they can take necessary depositions and propound written discovery to prove their claims.

Dated: October 15, 2008

Respectfully Submitted,

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____/s/ Celia McGuinness_____
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